

EX PARTE OR LATE FILED

**Fort Belknap Indian Community**

ORIGINAL



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Fort Belknap Agency  
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Fort Belknap Indian Community  
(Tribal Govt.)  
Fort Belknap Indian Community  
(Elected to administer the affairs of the community and  
to represent the Assiniboiné and the Gros Ventre  
Tribes of the Fort Belknap Indian Reservation)

September 1, 2000

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SEP 5 2000

CHAIRMAN KENNARD  
The Federal Communications Commission  
445 12<sup>th</sup> Street, Southwest  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mister Chairman;

The Assiniboiné and Gros Ventre nations of the Fort Belknap Indian Community, Montana, finds the Common Carrier Bureau Order (CC Docket No. 96-45) contrary to our efforts to immediately, efficiently, and economically improve services on our reservation. The Commission fails to recognize its federal trust responsibility towards the Fort Belknap Indian Community and its Fort Belknap Indian Community Council.

We hereby present you with a formal request for reconsideration of the Common Carrier Order. The Commission must explain further why the order disregards our tribal sovereignty, and violates the federal trust responsibility towards the Fort Belknap Indian Community.

Respectfully yours;

Mr. Joseph F. McConnell, President  
Fort Belknap Indian Community Council

Cc: Senator Burns  
Senator Baucus  
Senator Nighthorse Campbell  
Senator McCain  
Senator Inouye  
Western Wireless Corporation  
Common Carrier Bureau

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List A B C D E

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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In the Matter of )

Federal-State Joint Board on Universal Service, )  
Promoting Deployment and Subscribership in )  
In Unserved and Underserved Areas, Including )  
Tribal and Insular Areas )

Western Wireless Corporation, Crow Reservation )  
In Montana )

Smith Bagley, Inc. )

Cheyenne River Sioux Tribe Telephone Authority )

Western Wireless Corporation, Wyoming )

Cellco Partnership d/b/a/ Bell Atlantic Mobile, Inc. )

Petitions for Designation as an Eligible )  
Telecommunications Carrier and for Related )  
Waivers to Provide Universal Service )

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

CC Docket No. 96-45

**Petition for Reconsideration**

By

**The Assiniboine and Gros Ventre Tribes of the Fort Belknap Indian Community of  
Montana**

The Assiniboine and Gros Ventre Tribes of the Fort Belknap Indian Community of Montana hereby submits this Petition for Reconsideration of the Commission's *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, FCC 00-208, released on June 30, 2000 ("*Twelfth Report and Order*"). In the *Twelfth Report and Order*, the Commission adopted rules and policies for, among other things, considering a request by a carrier to be designated as an Eligible Telecommunications Carrier ("ETC") on tribal lands. The Tribes of the Fort Belknap Indian Community respectfully requests that the Commission reconsider its decision not to assume jurisdiction outright over the designation of a carrier as an ETC on tribal lands. In concluding that "whether a carrier providing service on tribal lands is subject to the jurisdiction of a state commission is a complicated and intensely fact-specific legal inquiry informed by principles of tribal sovereignty and requiring the interpretation of treaties, and federal Indian law and state law," the Commission fails to recognize its federal trust responsibility to the tribes and that it is the Commission's responsibility to designate a carrier seeking to serve only areas within a established reservation as an ETC.

As Chairman of the Assiniboine and Gros Ventre Tribes of the Fort Belknap Indian Community of Montana, I am deeply concerned by the recent adoption of Orders (June 8) by the Federal Communications Commission. In particular, I am troubled by the Common Carrier Bureau Order No. 96-45 and the manner in which it focuses on Eligible Telecommunications Carrier ("ETC") status and Universal Service funding for developing wireless communications on Indian reservations. The language of this order disregards tribal sovereignty by continuing to defer to state governments and placing the "burden of proof" onto carriers to show that states do not have jurisdiction. I believe this approach is ineffective and an intentional affront to tribal sovereignty. The requests of our tribal community other tribal governments in Indian Country who may choose an affordable and reliable local loop wireless telephone service, should not be denied.

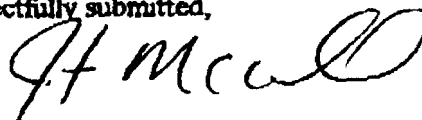
I remind this Commission about the necessity of honoring and upholding the "federal trust responsibility" (see attached May 31, 2000 letter), which insures our tribal sovereignty. As citizens of the United States of America, we are guaranteed the right to access high-quality, advanced telecommunications systems for our reservation, like all Americans. As tribal chairman and a citizen of this Indian Community, I am entrusted with the sovereign responsibility to honor our "federal trust relationship" and to guarantee my people this access by ensuring that our sovereign decisions are acknowledged and respected when made.

Our situation is similar to that of the Crow Nation we are located in rural Montana, with a large land base, and we have a defined population where wireless services are particularly adaptable and affordable. With a population of 3,356 living in an area of 697,000 acres. Forty-four per cent (44%) rate of homes without basic telephone service. There are 701 homes on the reservation, 309 do not have a telephone. This is unacceptable.

Our reservation has enacted measures to insure that all our people are connected. This begins with our "choice" of service making this choice is our sovereign right. We have explored the market and considered ideas, which would best suit our reservation telecommunications needs. We have determined wireless to be our best option. We anticipate that our efforts to achieve wireless services will translate into the Fort Belknap Indian Community having equal access to the telecommunications services, necessary to foster solid economic and social prosperity for our peoples. Therefore, it is necessary for you to uphold and honor the sovereignty of tribes and it is imperative that this order be reconsidered. We expect you to honor the sovereign request of the Crow Tribe, and to guarantee their people access to affordable and reliable wireless telecommunications services on their reservation. This decision made by you, the Commission, will determine the positive social and economic impact wireless telephone services can have on Indian Country. I respectfully request a expeditious response, from this Commission, informing me and my people of the Fort Belknap Indian Community, as to the reasons why you, the Commission, voted in favor of this Common Carrier order which disregards our tribal sovereignty.

In sum, the Assiniboine and Gros Ventre Tribes of the Fort Belknap Indian Community of Montana respectfully requests that the Commission reconsider its decision not to assume jurisdiction outright over the designation of a carrier that serves only a reservation as an ETC. Requiring a carrier to establish Commission jurisdiction through an exhaustive legal proceeding will have a chilling effect on any carrier seeking to provide service on reservations, ignores the Commission's federal trust responsibility, and takes away from the tribes their ability for self-determination.

Respectfully submitted,



Joseph F. McConnell, President  
Fort Belknap Indian Community Council

Cc/ Chairman William Kennard  
Commissioner Susan Ness  
Commissioner Michael Powell  
Commissioner Harold Furchgott-Roth  
Commissioner Gloria Tristani

# Fort Belknap Indian Community



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Tribes of the Fort Belknap Indian Reservation)

May 31, 2000

William E. Kennard, Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Chairman Kennard:


The Fort Belknap Indian Community, home of the Gros Ventre and Assiniboine nations, supports the sovereign request of the Crow Nation, to have the Federal Communications Commission grant Eligible Telecommunications Carrier status to Western Wireless Corporation, for service and subsidies on the Crow Reservation. The Fort Belknap Indian Community, like the Crow Nation, is a domestic sovereign nation and we expect the F.C.C. will affirm our tribal sovereignty, in all of its actions.

For over two years, the F.C.C. has finally focused on the extraordinary need for improved telecommunications services on Indian reservations. All citizens must have access to high-quality basic and advanced telecommunications services, especially those in "Indian Country". We anticipate that our efforts will translate into the Fort Belknap Indian Community having equal access to the telecommunications services necessary to bring about solid economic and social prosperity for our peoples. Our situation is similar to that of the Crow Nation, being located in rural Montana, with a large land base, and a defined population where wireless services are particularly adaptable and affordable.

As with others in "Indian Country", we are concerned that the failure to grant Eligible Telecommunications Carrier status will force the Crow Nation, the Fort Belknap Indian Community, and other tribal governments in Montana, to defer to the state, to receive telephone services and subsidies. The tribal governments are domestic sovereign nations and hold precious their right to regulate activities that occur on their respective tribal lands. It is this "trust responsibility" that insures that our sovereignty status is upheld and honored.

The Federal Communications Commission actions is extremely important to not only the Crow Nation, to the Fort Belknap Indian Community, but all of "Indian Country", as an affirmation of tribal sovereignty. The opportunity to have competitive, affordable, and reliable telecommunication services should be provided to all citizens, including those in "Indian Country". Your actions are critically important to Fort Belknap and to all the other federally recognized, domestic, and sovereign nations.

Therefore, I remain;

A handwritten signature in black ink, reading "J F McConnell". The signature is written in a cursive, flowing style with a large, stylized "J" and "M".

Joseph F. McConnell, President  
Fort Belknap Indian Community Council